



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/918,401

07/30/2001

John P. Moyna

CJM-P-01-001

4664

29013

7590

09/08/2006

PATENTS+TMS, P.C.
2849 W. ARMITAGE AVE.
CHICAGO, IL 60647

EXAMINER

BATSON, VICTOR D

ART UNIT

PAPER NUMBER

3671

DATE MAILED: 09/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-40 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitations regarding the movement of the first end of the frame in a first direction resulting in movement of the second end of the frame in a second direction has not been properly described in the specification.

Claims 1-40 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The limitations regarding the movement of the first end of the frame in a first direction resulting in movement of the second end of the frame in a second direction has not been properly described in the specification. Additionally, applicant does not have basis in the specification for the claimed axle associated with the frame. It is noted that the specification refers to a wheel axis 28 and a disc axis 38 & 40.

Specification

The disclosure is objected to because of the following informalities: Applicant discusses tires 30 connected to a wheel axis, and the use of an oil bath and screw plug with a tire (pages 10-11 and figure 5). However, the examiner notes that applicant appears to be referring to a wheel on which a tire is mounted. Similarly, figure 5 appears to show a tire mounted on a wheel, with the wheel having the screw plug. It appears that applicant should be referring to a wheel instead of a tire. Similarly, it appears that applicant incorrectly refers to a wheel axis instead of a wheel axle. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-40 as best understood are rejected under 35 U.S.C. 102(b) as being anticipated by Kinzenbaw et al. (5,346,019).

Kinzenbaw et al. discloses an apparatus for separating soil including a frame, a plurality of discs, a pillar 118, a column, 100b inside the pillar, liner 180b and plates 182b inside the pillar supporting the column as shown in figures 3d & 6. The examiner notes that front cylinder 80 moves to adjust the angle of the frame relative to the soil as viewed from above (see figure 2 where the frame is pivoted 90 degrees). Additionally, it is noted that the frame 20 has a body defined by a plane as shown in figure 3d.

Art Unit: 3671

Furthermore, figure 1 shows discs positioned on opposite sides of the tires as does figure 2 in phantom. Concerning claim 35, the axle is considered member 132 or the wheel axle (see 164, fig. 4). It is noted that when the apparatus of Kinzenbaw et al. travels over a bump or undulation, or if the tongue 14 is raised, the apparatus would pivot about the wheels causing the front of the frame to move upwardly, while the rear of the frame moves downwardly. Concerning the method claims, given the structure of Kinzenbaw et al., the claimed method steps as best understood would inherently be performed.

Response to Arguments

Applicant's arguments have been considered but are moot in view of the new, 35 U.S.C. 112, first paragraph ground(s) of rejection. In the response filed 6/5/06, applicant states that new claim 38 was added incorporating the limitations of claim 3 into claim 1. However, the examiner notes that new claim 38 does not appear to include the limitations of claim 3.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Batson whose telephone number is (571) 272-6987. The examiner can normally be reached on Monday through Thursday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on (571) 272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

Art Unit: 3671

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

September 4, 2006



Victor Batson
Primary Examiner
Art Unit 3671